

Message Text

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ORIGIN NEA-10

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FM SECSTATE WASHDC
TO AMEMBASSY ABU DHABI PRIORITY

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E.O. 11652: N/A

TAGS: ETRD, TC

SUBJECT: ARAB BOYCOTT: BID PROCEDURES

REF: (A) ABU DHABI 132, (B) 76 ABU DHABI 3344,
(C) 76 STATE 301188

1. STATE AND COMMERCE OFFICERS HAVE DISCUSSED BOYCOTT
ISSUES ARISING IN CONNECTION WITH DOLLARS 50 MILLION PLUS
UAE MILITARY AIRPORT WITH S. J. GROVES OFFICIALS. GROVES
GENERAL COUNSEL JOHN SARF INDICATES THAT GROVES WILL NOT
RPT WILL NOT PARTICIPATE IN BID ON AIRPORT PROJECT IF UAE
REQUIRES (1) ACCEPTANCE OF BOYCOTT CONDITIONS CONTAINED
IN TENDER MATERIALS OR (2) INVOLVEMENT BY GROVES IN PROCESS
OF ENFORCING UAE BOYCOTT. GROVES IS INVOLVED IN MAJOR
CONSTRUCTION PROJECTS IN SAUDI ARABIA ON BASIS WHICH
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DOES NOT REQUIRE SUCH INVOLVEMENTS WITH ARAB BOYCOTT
ENFORCEMENT PRACTICES. FIRM IS ACTIVELY INTERESTED IN
EXPANDING BUSINESS RELATIONS WITH UAE AND OTHER ARAB
COUNTRIES ON SIMILAR BASIS.

2. SARF NOTES THAT EFFORTS TO SORT OUT THIS PROBLEM IN
CONTEXT OF UAE INTERNATIONAL AIRPORT PROJECT WERE FRUSTRATED

IN PART BY CHANGES TAKING PLACE AT THE TIME IN ABU DHABI GOVERNMENT. GROVES IS 49 PERCENT OWNER IN JOINT VENTURE ARRANGEMENT IN ABU DHABI WITH LOCAL BUSINESSMAN AL JABIR. AL JABIR, ACCORDING TO SARF, IS UNWILLING AT PRESENT TIME TO APPROACH UAE OFFICIALS TO DETERMINE WHETHER PROVISION COULD BE MADE IN BID PROCESS FOR EXCEPTION FOR U.S. JOINT VENTURE PARTNERS.

3. GROVES ASKS EMBASSY'S ASSISTANCE IN DETERMINING WHAT ARRANGEMENTS MIGHT BE WORKED OUT UNDER UAE BID PROCEDURES WHICH WOULD PROVIDE ASSURANCE TO PROSPECTIVE BIDDERS THAT RESULTING CONTRACT AWARDS WOULD NOT STIPULATE SUCH REQUIREMENTS FOR BOYCOTT PARTICIPATION BY FOREIGN PARTNERS INVOLVED IN JOINT VENTURE PROJECTS. ABSENT SUCH ASSURANCES, GROVES IS CONCERNED THAT BID PREPARATION FOR MILITARY AIRPORT WOULD BE WASTE OF DOLLARS 30-40 THOUSAND REQUIRED AND ALSO CONCERNED OVER POSSIBLE RESULTING FORFEITURE OF 5 PERCENT BID BOND IN EVENT OF SUCCESSFUL BID FOLLOWED BY DISAGREEMENT OVER BOYCOTT CONDITIONS.

4. SPECIFICALLY, GROVES WOULD LIKE EMBASSY TO OBTAIN ADVICE FROM APPROPRIATE UAE OFFICIALS ON QUESTIONS OF (1) WHETHER BID TAKING SPECIFIC EXCEPTION TO BOYCOTT CONDITIONS IN TENDER DOCUMENTS WOULD BE TREATED AS RESPONSIVE BID AND (2) IF SO, WHETHER BID TAKING SUCH EXCEPTION WOULD PROTECT BIDDER FROM RISK THAT BID BOND WOULD BE CONFISCATED BECAUSE OF LATER REFUSAL OF FIRM TO AGREE TO PLAY ROLE IN BOYCOTT ENFORCEMENT PRACTICES. IF THESE OBSTACLES CAN BE OVERCOME, REQUEST EMBASSY OBTAIN LIMITED OFFICIAL USE

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INFORMATION FROM UAE ON HOW U.S. FIRM COULD AVOID BOYCOTT-RELATED RISK OF LOSS.

5. S. J. GROVES DOES NOT RPT NOT WISH TO BE IDENTIFIED IN CONNECTION WITH EMBASSY REPRESENTATIONS ON THIS ISSUE. GROVES UNDERSTANDS THAT DEADLINE FOR BIDS ON UAE MILITARY AIRPORT HAS BEEN EXTENDED UNTIL MARCH 1. TIME, HOWEVER, IS STILL CRITICALLY SHORT FOR PREPARATION OF BID MATERIALS. ACCORDINGLY, EMBASSY REQUESTED TO ACT QUICKLY TO DETERMINE WHAT POSSIBILITY MAY EXIST IN WORKING OUT BID PROCESS ON TERMS MUTUALLY AGREEABLE TO UAE AND TO U.S. FIRMS WHOSE ACTIONS VIS-A-VIS BOYCOTT ARE INCREASINGLY CONSTRAINED BY U.S. LAWS (E.G., TERMS OF RECENT PROPOSED ANTITRUST CONSENT DECREE INVOLVING BECHTEL) OR BY POLICY CONSIDERATIONS.

6. RE CURRENT ADVICE WE ARE GIVING TO U.S. FIRMS, WE ARE CONTINUING TO ENCOURAGE FIRMS TO SEEK MEANS OF DOING BUSINESS WHICH AVOID ANY INVOLVEMENT WITH BOYCOTT CONDITIONS

OR OTHER BOYCOTT ENFORCEMENT PRACTICES. RESULTS TO DATE
OFFER SOME ENCOURAGEMENT. ALTHOUGH ARAB GOVERNMENTS AND
BUYERS HAVE NOT ENDED THEIR OWN EFFORTS TO ENSURE BOYCOTT
COMPLIANCE, GROWING NUMBER OF TRANSACTIONS APPEAR TO
RELIEVE U.S. FIRMS OF ROLE IN BOYCOTT ENFORCEMENT DECI-
SIONS. THIS APPEARS TO BE THE CASE IN GROVES' DEALINGS
WITH SAUDI ARABIA CITED PARA 1.
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